



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

EDDIE LEE GORDON,

Petitioner,

vs.

WARDEN RUTH YANCEY; DIRECTOR,
FEDERAL BUREAU OF PRISONS;
UNITED STATES OF AMERICA,

Respondents.

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CIVIL ACTION NO. 6:05-2929-HFF-WMC

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE

This is a *habeas corpus* petition brought pursuant to 28 U.S.C. § 2241. Petitioner is proceeding *pro se*. The matter is before the Court for review of the report and recommendation (Report) of the United States Magistrate Judge in which he recommends that the Court dismiss the petition *without prejudice* and without service of process. The Report is made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Matthews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or

recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed his Report on November 1, 2005, and Petitioner failed to file any objections to the Report. In the absence of such objections, the Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir.1985).

After a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court adopts the Report and incorporates it herein.¹ Therefore, it is the judgment of this Court that the petition should be, and hereby is, **DISMISSED** *without prejudice* and without service of process.

IT IS SO ORDERED.

Signed this 22d day of November, 2005, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this Order within **sixty (60)** days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

¹ In addition to the caselaw cited in the Report, the Court directs Petitioner's attention to the intervening decision of the Court of Appeals in *United States v. Morris*, No. 04-7889, 2005 WL 2950732 (4th Cir. November 7, 2005).